

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TC THE CONFLUENCE LP, a California  
limited partnership,

Plaintiff,

v.

TRISTANNA COX and CHARLES COX,  
SR.,

Defendants.

No. 2:22-cv-01567-TLN-AC

**SUA SPONTE REMAND ORDER**

This matter is before the Court on Defendants Tristanna Cox and Charles Cox's (collectively, "Defendants") Notice of Removal and Motions to Proceed in Forma Pauperis. (ECF Nos. 1–3.) For the reasons set forth below, Defendants' Motions to Proceed in Forma Pauperis (ECF Nos. 2, 3) are DENIED as moot, and the Court hereby REMANDS the action to the Superior Court of California, County of Sacramento, due to lack of subject matter jurisdiction.

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**I. FACTUAL AND PROCEDURAL BACKGROUND**

On May 31, 2022, Plaintiff TC The Confluence LP (“Plaintiff”) brought an action for unlawful detainer against Defendants for possession of real property known as 3142 Occidental Drive #16, Sacramento, California, 95826 (the “Property”). (ECF No. 1 at 6.) On September 2, 2022, Defendants filed a Notice of Removal removing this unlawful detainer from the Sacramento County Superior Court. (ECF No. 1.)

**II. STANDARD OF LAW**

28 U.S.C. § 1441 permits the removal to federal court of any civil action over which “the district courts of the United States have original jurisdiction.” 28 U.S.C. § 1441(a). “Removal is proper only if the court could have exercised jurisdiction over the action had it originally been filed in federal court.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987).

Courts “strictly construe the removal statute against removal jurisdiction,” and “the defendant always has the burden of establishing that removal is proper.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (per curiam). Furthermore, “[i]f the district court at any time determines that it lacks subject matter jurisdiction over the removed action, it must remedy the improvident grant of removal by remanding the action to state court.” *California ex rel. Lockyer v. Dynege, Inc.*, 375 F.3d 831, 838, *as amended*, 387 F.3d 966 (9th Cir. 2004), *cert. denied* 544 U.S. 974 (2005).

Federal question jurisdiction is set forth in 28 U.S.C. § 1331. *See* 28 U.S.C. § 1331. The “presence or absence of federal question jurisdiction is governed by the ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc.*, 482 U.S. at 386. Federal question jurisdiction therefore cannot be based on a defense, counterclaim, cross-claim, or third-party claim raising a federal question. *See Vaden v. Discover Bank*, 556 U.S. 49 (2009); *Hunter v. Philip Morris USA*, 582 F.3d 1039, 1042–43 (9th Cir. 2009).

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1           **III. ANALYSIS**

2           Defendants removed this action based on federal question jurisdiction. (ECF No. 1-1 at  
3 1.) However, the instant Complaint relies solely on California state law and does not assert any  
4 claims under federal law. (*See* ECF No. 1 at 5–9.) Based on the well-pleaded complaint rule as  
5 articulated above, “federal jurisdiction exists only when a federal question is presented on the  
6 face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc.*, 482 U.S. at 386.

7           Because the Complaint indicates that the only cause of action is one for unlawful detainer,  
8 which arises solely under state law, this action does not arise under federal law. As there are no  
9 apparent grounds for federal jurisdiction, it is appropriate to remand this case, *sua sponte*, for lack  
10 of federal subject matter jurisdiction. *See United Investors Life Ins. Co. v. Waddell & Reed Inc.*,  
11 360 F.3d 960, 967 (9th Cir. 2004) (“[T]he district court ha[s] a duty to establish subject matter  
12 jurisdiction over the removed action *sua sponte*, whether the parties raised the issue or not.”).

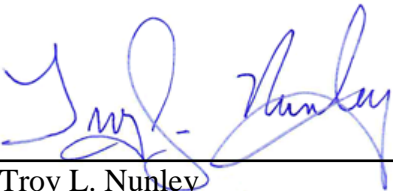
13           **IV. CONCLUSION**

14           For the reasons stated above, Defendants’ motions to proceed in forma pauperis (ECF  
15 Nos. 2, 3) are DENIED as moot, and the Court hereby REMANDS this action to the Superior  
16 Court of California, County of Sacramento.

17           IT IS SO ORDERED.

18           **DATED: September 29, 2022**

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Troy L. Nunley  
United States District Judge